

REMARKS

The claims pending in the application remain 26-50.

Favorable reconsideration of the application is respectfully requested.

Applicants elect Group A, Claims 26-40, for examination at the present time, with traverse. More particularly, Applicants respectfully submit Group B, Claims 41-46 should also be examined at the present time, for the following reasons.

According to M.P.E.P. § 1893.03(d), unity of invention (not restriction) practice, applies to U.S. national phase applications filed under 35 U.S.C. § 371. Unity of invention is determined without regard to a group of inventions being claimed in separate claims or as alternatives in a single claim. More specifically, lack of unity of invention requires establishing no single general inventive concept.

In the present application, Claims 26-40 relate to a method and device for recirculating part of exhaust gas from a diesel engine, while Claims 41-46 are directed to a valve for mixing exhaust gas and fresh air. These claims all recite, among other features, a valve or valve device 12 comprising two dampers 20, 21, with one of the dampers 20, 21 always open and the other damper 20, 21 closed by a common motor 22 (reference is being made to preferred embodiments of the present invention illustrated in the drawings of the present application).

Therefore, in accordance with M.P.E.P. §1893.03(d), there is a technical relationship involving at least one common or corresponding special technical feature to link Claims 26-46 to a single general inventive concept to provide unity of invention. Contrary to the assertion in paragraph 2 of the Office Action, there is indeed an


inventive feature carried through these two groups of claims A and B. It is respectfully pointed out the classification categories of the U.S. Patent and Trademark Office set forth in paragraph 2 of the Office Action do not bear upon determining unity of invention as set forth in M.P.E.P. §1893.03(d) and the corresponding federal and international statutes and rules.

In this regard, a copy of the International Preliminary Examination Report PCT/IPEA/409 issued in the parent PCT application is enclosed. Claims 1-21 appended to the International Preliminary Examination Report, and which correspond to Claims 26-46 presented for examination herein, have been deemed to possess unity of invention by the International Preliminary Examining Authority.

Accordingly, for the reasons presented supra, it is respectfully requested all Claims 26-46 presented herein be examined at the present time as possessing requisite unity of invention. The right to pursue a divisional application to the subject matter of nonelected Claims 47-50 is explicitly reserved by the Applicants.

Early favorable action is earnestly solicited.

Respectfully submitted,


George M. Kaplan, Esq.
Reg. No. 28,375
Attorney for Applicant(s)

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, NY 11553
(516) 228-8484